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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,739	10/09/2001	Raymundo Saenz	DP-306444	7051

7590 07/20/2004  
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EXAMINER

BUTLER, DOUGLAS C

ART UNIT PAPER NUMBER

3683

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/974,739

Applicant(s)

SAENZ ET AL.

Examiner

Douglas C. Butler

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 5 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. An action on the merits of claims 5 and 12 considered readable on the elected Species D(Figure 8) is included in the office action.
2. Claims 1-4, 6-11 and 13-14 have been canceled.
3. Re the response filed 05/07/2004, page 4 indicates that claims 12-13 were canceled. This appears to be a typographical error in that claims 13-14 were canceled with claim 12 pending along with claim 5.
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over instant Figures 1-3, admitted prior art, in view of Ireland(1763927) or Prather et al(3213524) or Meyer(1939128) or Hall(3326513) or Walker(2194961), all newly cited.

Instant Figures 1-3, admitted prior art, discloses the invention substantially as claimed except for the specific configuration and mounting for the ball valve thereof.

Each of the secondary reference discloses valves with intermediate cylindrical section and larger ends of different shapes or "volumes".

Re Ireland (1763927): See Figure 2 with cylindrical section 24.

Re Prather et al(3213524):See Figure 3.

Re Meyer(1939128):See Figure 2.

Re Hall(3326513) : See Figure 3

Re Walker(2194961): See Figure 6.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the mounting and ball valve arrangement of instant Figures 1-3, admitted prior art, to include a central cylindrical section similar to that of each of the secondary references with different sized ends(i.e., different volumes) as taught by each of the secondary references to Ireland(1763927) or Prather et al(3213524) or Meyer(1939128) or Hall(3326513) or Walker(2194961), all newly cited, in order to facilitate assembly and to reduce the valve's footprint in order to save material and thus reduce costs.

The method of claim 12 is encompassed by the above modified structure.

7. Applicant's arguments with respect to claims 5 and 12 have been considered but are moot in view of the new ground(s) of rejection.

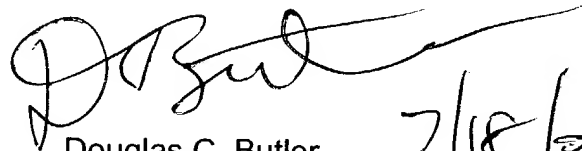
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas C. Butler whose telephone number is 703-308-2575. The examiner can normally be reached on m-f 5:30 am to 2pm.

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The fax phone number for the organization where this application or proceeding  
is assigned is 703-872-9306.



Douglas C. Butler  
Primary Examiner  
Art Unit 3683

7/18/04